

COMMUNITY ENHANCEMENT GRANTS

INSTRUCTIONS and FAQ

The application is the only written directive about the grants. The process is very simple as outlined in the application packet, i.e.

- ☐ amount requested; Please prioritize your request.
- ☐ what you plan to use the funds for
- ☐ “the benefits that you anticipate from receiving these funds”
- ☐ proof of not for profit or governmental status
- ☐ Substitute W-9 and organizational information.
- ☐ Affidavit of non revocation of 501 c status (501 c organizations, only)

If you are applying as a 501(c) organization you **must** submit the affidavit (notarized statement) that your status has not been revoked by the IRS.

Restrictions: The following restrictions have been added at the directive and recommendation of the State Attorney General and apply to all grant applications.

Community Enhancement Grants will not be awarded to a church or other institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission. This includes, but is not limited to, religious schools where the curriculum is designed and taught to advance particular religious viewpoints, where faculty must belong to a particular religion, or where tuition breaks or other advantages are afforded students of a particular religion.

Grant funds may be awarded to institutions that are not pervasively sectarian as described above. But grant funds may not be used for inherently religious activities, such as worship, religious instruction, or proselytizing. Activities funded by grant funds should be operated and presented separately from inherently religious activities in which the grantee engages. Grant funds may **not** be used to build, renovate, or maintain buildings where inherently religious activities are conducted, unless the building is made available to all groups or members of the public based on criteria that are neutral and secular.

Who Must Complete The Application?

The application should be filled out by the receiving organization

What Is The Deadline for Applications?

Applications must be in the Secretary of State’s Capitol office by 4: 30 p.m. on August 15, 2007. Late applications will be rejected.

Can I Fax My Application?

Yes, But you must **mail in the original application**. We cannot process your application without original signatures.

How Much Should I Apply For?

The legislation does not place a limit on the amount of funds that you can apply for. Most grants in the past have been in the \$5,000 to \$10,000 range. Because the legislation allows for renovation or construction costs, some additional funds will be awarded. This is the only guidance that I can provide on the amount of the awards.

If I Ask For Too Much Money Will My Application Be Thrown Out?

No. We ask you to prioritize your request so that we can make a determination on funding. We anticipate a huge number of applications. Our goal is to fund projects as fairly and equitably as possible.

I'm A Government Entity. How Do I Prove It?

Governmental entities should provide a letter from the county mayor (county executive) or city mayor on official letterhead affirming that the entity is part of the governmental unit. Other forms of proof of governmental status will be accepted.

When Will Funds Be Awarded?

Funds will be probably be awarded by the end of September or early October.

How Long Do I Have To Spend The Money?

Money awarded must be spent by June 30, 2008 and accountings are due within 90 days of that date with a copy to the State Comptroller.

What is a Charter?

The charter is the document that you file with the Secretary of State's Office that brings your corporate business into existence. It should have a filing stamp indicating that date the corporation came into existence. If your corporation has been administratively dissolved, provide proof of reinstatement. You may check your status at this link:

<http://www.tennesseeanytime.org/soscorp/>

These documents are **not** a charter:

[Articles of Amendment to the Charter](#)

[Application for Certificate of Authority](#)

[Application for Amended Certificate of Authority](#)

[Articles of Conversion \(to Nonprofit LLC\)](#)

Articles of Correction

What's a ITIN or an EIN?

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the Internal Revenue Service. It is a nine-digit number that always begins with the number 9 and has a 7 or 8 in the fourth digit, example 9XX-7X-XXXX.

The IRS issues ITINs to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN) from the Social Security Administration (SSA).

An Employer Identification Number (EIN), also known as a Federal Tax Identification Number, is a nine-digit number that the IRS assigns to business entities. The IRS uses this number to identify taxpayers that are required to file various business tax returns. EINs are used by

employers, sole proprietors, corporations, partnerships, non-profit organizations, trusts and estates, government agencies, certain individuals and other business entities.

You should use the EIN if you are applying on behalf of an organization.

Churches, Church Affiliated Organizations, Religious and Faith Based Organizations should be aware of the following Attorney General's Opinion.

S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

June 12, 2007

Opinion No. 07-94

Grants to Churches and Youth Clubs with Church Affiliations

QUESTION

Would a grant of state funds to churches and youth groups that appear to be affiliated with churches without specific instructions regarding how the funds may be spent violate state and federal constitutional provisions against the establishment of religion?

OPINION

An unrestricted grant of state funds to several churches and church youth groups would violate the Establishment Clause of the First Amendment to the United States Constitution. Further, any attempt to monitor restrictions on use of the funds would create a significant risk that the state government would become excessively entangled with the day-to-day operations of these organizations in violation of the Establishment Clause, depending upon the facts and circumstances of the monitoring regime.

ANALYSIS

The General Assembly is considering enactment of a "Community Enhancement Grant Program" by which the State would grant money to governmental entities and non-profit associations. We have been provided information stating that the grant categories and purposes authorized for inclusion are public safety, cultural activities, and community development. The opinion request contains a list of five Baptist churches and fifteen "youth clubs," which appear from their names to be affiliated with churches. Your question is whether community enhancement grants to these organizations without specific instructions regarding how the funds may be spent would violate the state and federal constitutional provisions requiring the separation of church and state. This opinion is necessarily general in the absence of specific details of the proposed Community Enhancement Grant Program.

The Establishment Clause of the First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion.” The First Amendment is applicable to the states through operation of the Fourteenth Amendment. At a minimum, the First Amendment guarantees that the government may not coerce anyone to support or participate in a religion or its exercise, or otherwise act in a way that establishes a state religion or religious faith or which tends to do so. *Lee v. Weisman*, 505 U.S. 577, 112 S.Ct. 2649, 2655, 120 L.Ed.2d 467

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(1992). Similarly, Article 1, Section 3, of the Tennessee Constitution provides that “no preference shall ever be given, by law, to any religious establishment or mode of worship.” In *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 15, 67 S.Ct. 504, 91 L.Ed. 711 (1947), the Supreme Court stated that the Establishment Clause means that neither a state nor the federal government may “pass laws which aid one religion, aid all religions, or prefer one religion over another.” 330 U.S. 1 at 15, 67 S.Ct. 504, at 511. No tax, in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called or whatever form they may adopt to teach or practice religion. *Id.*

Two lines of analysis used by the United States Supreme Court in determining whether a statute violates the Establishment Clause are relevant to the question here. First, the list appears to single out only churches of the Baptist denomination (four of the five churches listed are identified as Baptist by their names). These grants, therefore, are vulnerable to a challenge on the grounds that the grants would create a denominational preference.¹ When it is claimed that a denominational preference exists, the initial inquiry is whether the law facially differentiates among religions. *Hernandez v. Commissioner of Internal Revenue*, 490 U.S. 680, 109 S.Ct. 2136, 2146, 104 L.Ed.2d 766 (1989). If no such facial preference exists, courts frequently use a three-part test articulated in *Lemon v. Kurtzman*, 403 U.S. 602, 91 S.Ct. 2125, 29 L. Ed.2d 745 (1971).² Under this test, the criteria to be examined in determining whether a statute violates the Establishment Clause are (1) whether the statute has a secular legislative purpose; (2) whether its primary effect is one that neither advances nor inhibits religion; and (3) whether it fosters excessive government entanglement with religion.

We think the courts would conclude that an unrestricted grant of state funds to particular Baptist churches is an unconstitutional establishment of religion under both the Tennessee Constitution and the United States Constitution. First, these grants on their face appear to favor the religion of the Baptists over the religion of others. Second, the grants also appear to fail the second and third prongs of the *Lemon* test. Aid has the primary effect of advancing religion where it flows directly to an institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission or when it funds a specifically religious activity in an otherwise substantially secular setting. *Roemer v. Board of Public Works of Maryland*, 426 U.S. 736, 96 S.Ct. 2337, 2347, 49 L.Ed.2d 179 (1976) (plurality opinion); *Hunt v. McNair*, 413 U.S. 734, 93 S.Ct. 2868, 2873, 37 L.Ed.2d 923 (1973). A church is such an

¹ The same constitutional objection would arise if a preference were granted to churches of the Christian faith generally over institutions of other faiths.

² The Supreme Court recently declined to abandon the three-part *Lemon* test in *Orden v. Perry*, 545 U.S. 677, 125 S.Ct. 2854, 162 L.Ed.2d 607 (2005).

institution. Moreover, monitoring a grant to a pervasively sectarian organization to ensure that funds are not used for a religious purpose may cause the government to intrude unduly in the day-to-day operations of religiously affiliated grantees. *Bowen v. Kendrick*, 487 U.S. 589, 108 S.Ct. 2562, 2578, 101 L.Ed. 520 (1988). For these reasons, unrestricted grants to the Baptist churches would violate the Establishment Clause. Further, any attempt to monitor any restrictions on the churches' use of the funds could

Page 3 create a significant risk that the state government would become excessively entangled with the day to- day operations of these religious institutions, depending upon the facts and circumstances of the monitoring regime.

The listed youth clubs, if controlled by a church, would also qualify as pervasively sectarian organizations, and, accordingly, the same analysis would render the proposed grants to them constitutionally suspect as well.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

ANN LOUISE VIX
Senior Counsel

Requested by:

Honorable Brian Kelsey
State Representative
203 War Memorial Building
Nashville, TN 37243-0183

Form Must Be In Secretary of State's Capitol Office by 4:30 On August 15th.

**GRANT APPLICATION/AGREEMENT
COMMUNITY ENHANCEMENT GRANT PROGRAM**

Tennessee Secretary of State
State Capitol
Nashville, TN 37243-0305

Enabling Legislation

Community Enhancement Grants are made pursuant to **SB2334/HB2353** (Appropriations Act) which states the following:

In addition to any other funds appropriated by the provisions of this act, there is appropriated the sum of twenty million dollars (\$20,000,000) to the secretary of state for the sole purpose of implementing the community enhancement grant program in accordance with the provisions of this section.

Eligible activities: (Indicate activity covered by this application with a ☒)

1. ☐ Public Safety activities (including but not limited to local law enforcement, fire and life safety programs, local drug programs, programs providing advocacy for children or vulnerable populations, criminal justice programs.)
2. ☐ Educational initiatives (including but not limited to local schools, school support organizations, programs which address significant local educational issues such as summer reading programs.)
3. ☐ Cultural activities (including but not limited to activities which enhance opportunities provided by museums, libraries, and historic sites) and activities in support of cultural activities.
4. ☐ Community Development activities (including but not limited to activities related to serving the unique needs of various segments of the population, such as the elderly and youth through recreational and community facilities, senior citizens centers, boys and girls clubs and the like as well as county and municipal infrastructure improvements such as road and bridge planning, construction and maintenance.)

Eligible purposes:

Grants must be used for one (1) or more of the following purposes: programs, services, operating costs, equipment, construction, renovation, or maintenance.

Documentation Required for Eligibility

In order to document your eligibility to receive a grant pursuant to the Appropriation Act please provide the following documentation:

- A. **Governmental agencies or entities:** Attach documentation of status as a governmental entity. Application must be signed by city mayor, or county mayor.
- B. **Non governmental entities:** Attach documentation evidencing your status as a not for profit corporation, non profit association, or similar non profit organization. Qualifying documents shall consist of one of the following:

1. 501(c) organizations: Documentation from the IRS that the organization is exempt as a 501 (c) organization together with an affidavit from the organization's chair, president or chief administrative officer that the organization's 501 (c) status has not been revoked,
2. Not for Profit Corporations: A copy of the charter for a not-for-profit corporation,
3. Tax Exempt Organizations: Documentation that a grant recipient holds property tax exempt status,
4. Non-profit Organizations: A copy of organizational documents and any other documents required by the Secretary of State that prove that the organization has been in continuous and active existence as a non-profit organization located in Tennessee for at least two (2) calendar years prior to the fiscal year in which the Community Enhancement Grant is made OR
5. An affidavit signed by the city mayor, or county mayor, from the county where the grant recipient is located affirming that the grant recipient is a not-for-profit corporation, non profit association, or similar non-profit organization.

C. **All organizations:** Indicate here a brief description of how you plan to use the funds you are requesting and the benefits that you anticipate from receiving these funds. The money granted under this agreement must be used for programs, services, operating costs, equipment, construction, renovation, or maintenance. This is a one time appropriation not subject to continuation except upon subsequent action by the Tennessee General Assembly.

<u>Short narrative required</u>
<u>attach separate sheet if necessary</u>

D. Indicate here the amount of money you are requesting \$_____.

All documentation must be returned with the grant application/agreement.

Instructions for Submission

If you choose to accept a grant, please follow these instructions:

1. Sign this agreement (include your taxpayer identification number and a daytime phone number) in the space provided as your acceptance of the terms and conditions stated in the Appropriations Act along with the following terms and conditions:

- a. As a prerequisite to the receipt of such direct appropriation, you shall agree to provide to the Secretary of State within ninety (90) days of the close of the fiscal year within which the direct appropriation was received, an accounting of the actual expenditure of such funds including a notarized statement that the report is true and correct in all material respects; provided, however, that the Secretary of State may require, in lieu of the accounting as provided above, an audited financial statement of the agency or entity. A copy of such accounting or audit, as the case may be, also shall be filed with the office of the Comptroller of the Treasury.
- b. If you fail to fulfill your obligations under this agreement, the State shall have the right to seek restitution, pursuant to the laws of the State of Tennessee, from you for payments to you under this agreement.
- c. Your records and documents insofar as they relate to the performance of your obligations or to payments received under this agreement, shall be maintained in a manner consistent with the accounting procedures of the Comptroller of the Treasury, pursuant to T.C.A., 4-3-304 and applicable rules and regulations thereunder.
- d. The funds received shall be placed in an interest bearing account until such time as they are needed for the purposes set out in the Appropriations Act. In the event that any portion of the funds is not expended, the unexpended portion plus any accrued interest shall be returned to the State.
- e. You must complete the attached **Substitute W-9 Form** and return it with this signed agreement. You are responsible for and assume the liability for failure to provide the correct taxpayer identification number for IRS purposes.

In order that we may process payment, return the following:

- ☐ **Signed Agreement**
- ☐ **Substitute W-9 Form; and**
- ☐ **A plan specifying the proposed use of the funds and the benefits anticipated to be derived therefrom; (see box on page 2) and**
- ☐ **Proof of governmental or not-for-profit status (required).**

Applications for grants must be received at the office of the Secretary of State by **4:30 p.m. on August 15, 2007**. Mail to:

**Riley C. Darnell
Secretary of State
1st Floor, State Capitol
Nashville, TN 37243**

We encourage you to return this agreement as soon as possible. The State is prepared to process this agreement and make payment in a timely fashion. If you should have any questions, comments or need any assistance, please feel free to contact Judy Bond-McKissack, Legal Counsel, at (615) 741-2819; email judy.bond-mckissack@state.tn.us; fax (615) 741-5962.

The notarized statement and accounting report regarding actual expenditures of these funds must be provided to the Secretary of State within 90 days of the close of the fiscal year ending June 30, 2008. An additional copy must be provided at that time to: Office of the Comptroller of the Treasury, First Floor, State Capitol; Nashville, Tennessee 37243-0260.

Please retain a copy of this Application/Agreement for your records. Payment status inquiries and accounting reports may be directed to the following staff of this department:

Mr. Mark Wood
Director of Fiscal and Administrative Services
312 8th Ave. North
7th Floor, Snodgrass Tower
Nashville, TN 37243
Phone: (615) 741-2683

Applicant Information

Name of Applicant Agency

Address of Applicant Agency

City, State, ZIP

On behalf of _____, I hereby agree to the above terms and conditions.

Name of Non profit Entity

Signature of Agency Head or Representative

Date

Name of Agency Head or Representative Representative

Title of Agency Head or

Federal Identification Number

Daytime Contact Phone Number

FAX number

E-mail address

For State Use Only

Grant Approved:

Amount of Grant: _____

Riley C. Darnell
Secretary of State

Date

SUBSTITUTE W-9 FORM
REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION

1. Complete general information:

Taxpayer

Name _____ Phone Number _____

Business Name (if applicable) _____

Address _____

City _____ State _____ ZIP Code _____

2. Circle the most appropriate category below: (circle only one)

- 1) Individual (not an actual business.)
- 2) Joint account (two or more individuals.)
- 3) Custodian account of a minor.
- 4) a) Revocable savings trust (grantor is also trustee.)
b) So-called trust account that is not a legal or valid trust under state law.
- 5) Sole proprietorship (using a social security number for the taxpayer ID.)
- 6) Sole proprietorship (using a federal employer identification number for taxpayer ID.)
- 7) A valid trust, estate, or pension trust.
- 8) Corporation.
- 9) Association, club, religious, charitable, educational, or other not-profit organization (for entities that are exempt from federal tax, use category 13 below).
- 10) Partnership.
- 11) A broker or registered nominee.
- 12) Account with the U.S. Department of Agriculture in the name of a public entity that receives agricultural program payments.
- 13) Government agencies and organizations that are tax-exempt under Internal Revenue Service guidelines (i.e., IRC 50(c)3 entities).

3. Fill in your taxpayer identification number below: (complete only one)

- 1) If you circled number 1 - 5 above, fill in your Social Security Number:

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- 2) If you circled number 6 - 13 above, fill in your Federal Employer Identification Number (EIN):

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4. Sign and date the form:

Certification – Under penalties of perjury, I certify that the number shown on this form is my correct taxpayer identification number. If I circled category 13 above, I also certify that my agency or organization is tax-exempt per Internal Revenue Service guidelines and not subject to backup withholding.

Signature_____

Date_____

Print Name _____

Title_____

**AMENDMENT TO GRANT APPLICATION/AGREEMENT FOR THE
COMMUNITY ENHANCEMENT GRANT PROGRAM**

The Applicant/Grantee Agrees that the Grant Application /Agreement shall be amended as follows:

by adding the following paragraphs f. and g. following paragraph e. on page 3:

f. The Applicant/Grantee covenants and represents as follows:

1. The Applicant/Grantee is not a church or a religious schools where the curriculum is designed and taught to advance particular religious viewpoints, where faculty must belong to a particular religion, or where tuition breaks or other advantages are afforded students of a particular religion. The Applicant/Grantee is not any other type of institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission.

2. The Applicant/Grantee will not use grant funds disbursed under this agreement for inherently religious activities, such as worship, religious instruction, or proselytizing.

3. The Applicant/Activities will operate and present activities funded with grant funds separately from any inherently religious activities in which the Applicant/Grantee engages.

4. The Applicant/Grantee will not use grant funds to build, renovate, or maintain buildings where inherently religious activities are conducted, unless the building is made available to all groups or members of the public based on criteria that are neutral and secular.

g. Activities conducted and records maintained by the Applicant/Grantee pursuant to this grant shall be subject to monitoring and evaluation by the State, the Secretary of State, the Comptroller of the Treasury, or their duly appointed representatives.

Name of Applicant Agency

Address of Applicant Agency

City, State, ZIP

on behalf of _____, I hereby agree to the above terms and conditions. Name of non-profit entity

Signature of Agency Head or Representative

Date

Name of Agency Head or Representative

Title of Agency Head or Representative

Federal Identification Number

Daytime Contact Phone Number

FAX number

E-mail address

AFFIDAVIT OF CONTINUING 501 (C) STATUS

1. _____
Name of Organization
2. _____
Physical address
3. I, _____, as _____
(print name) (Title)
of the above organization do hereby certify and affirm that the
organization's 501(c) status has not been revoked by the Internal Revenue Service.

I certify that the above information is true and accurate.

Signature

Name (Please Print)

Title (President, Chairperson or Chief Administrative Officer)

NOTARY

State of Tennessee)
County of _____)

Sworn to before me on (or signed on) this _____ day of _____,

Signature

Print

My Commission expires:

_____.